

(1) First and Final Report of Executor on Waiver of Account and for (2) Final Distribution

Age:		NEEDS/PROBLEMS/COMMENTS: <u>CONTINUED TO 1-28-14</u> Per attorney request
DOD:		
Cont. from		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
Reviewed by: skc		
Reviewed on: 12-6-13		
Updates:		
Recommendation:		
File 1 – Soto		

(1) Petition for Approval of First and Final Account and Report; (2) for Approval of Payment of Executor's Fees and Reimbursement of Costs Advanced; (3) for Approval of Payment of Attorney's Statutory and Extraordinary Fees; and (4) for Final Distribution [Prob. C. 1060 et seq., 10800, 10810, 10811, 10951, 11000, 11640, CRC 7.702, 7.703]

DOD: 3/13/2011		LEONORE SCHREIBER , Executor, is petitioner.	NEEDS/PROBLEMS/COMMENTS: 1. Extraordinary fee requests includes fees totaling \$250.00 for the attorney to obtain a tax ID number and advise Executor to file tax returns. This service appears to be statutory in nature and not extraordinary. 2. Costs includes \$36.50 in runner services. Local Rule 7.17 states the court considers runners services to be a part of the cost of doing business and is therefore not reimbursable. 3. Need Order
		Account period: 6/16/11 – 10/31/13	
Cont. from		Accounting - \$44,974.37	
<input type="checkbox"/>	Aff.Sub.Wit.	Beginning POH - \$38,900.00	
<input checked="" type="checkbox"/>	Verified	Ending POH - \$26,841.76	
<input checked="" type="checkbox"/>	Inventory		
<input checked="" type="checkbox"/>	PTC	Executor (statutory) - \$1,398.98	
<input type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg	Attorney (statutory) - \$1,398.98	
<input checked="" type="checkbox"/>	Aff.Mail	Attorney x/o - \$2,450.00	
<input type="checkbox"/>	Aff.Pub.	(per itemization and declaration for tax matters, sale of personal property, sale of mineral interest and disposition of burial plots)	
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input checked="" type="checkbox"/>	Letters	Costs - \$2,804.50	
<input type="checkbox"/>	Duties/Supp	(certified copies, filing fees, taxes, publication and probate referee)	
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt	Closing - \$1,000.00	
<input type="checkbox"/>	CI Report		
<input checked="" type="checkbox"/>	9202	Distribution pursuant to Decedent's Will is to:	
<input type="checkbox"/>	Order	Leonore Schreiber – personal property consisting of 2 guns and a Japanese Teak Chest.	
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input checked="" type="checkbox"/>	FTB Notice	Sierra Club - \$4,163.10 Yosemite Conservancy - \$4,163.10 Big Sur Land Trust - \$4,163.10	
			Reviewed by: KT Reviewed on: 12/6/13 Updates: Recommendation: File 2 – Goddard

(1) First Account and Report of Guardian, (2) Petition for Attorneys Fees [Prob. C. 2620]

Age: 12 years		MARLEEN C. MAFFEO , mother/guardian, is petitioner.		NEEDS/PROBLEMS/COMMENTS:	
		Account period: 7/18/12 – 7/17/13			
Cont. from		Accounting - \$246,855.69		1. Need declaration in support of attorney fees. California Rules of Court, Rule 7.751. 2. Need schedule listing the property on hand at the fair market value. Probate Code § 1063(a). (Note: Bank statements show that the current value of the stocks and securities is \$148,652.28. Therefore the fair market value of the estate would total \$389,256.77. This would mean that the bond should be increased to \$440,580.00) 3. Need proposed order Note: If the petition is granted, status hearings will be set as follows: • Friday, September 11, 2015 at 9:00 a.m. in Department 303, for the filing of the second account. Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior the date set the status hearing will come off calendar and no appearance will be required.	
<input type="checkbox"/>	Aff.Sub.Wit.	Beginning POH - \$235,589.46			
<input checked="" type="checkbox"/>	Verified	Ending POH - \$242,776.50			
<input type="checkbox"/>	Inventory	Current bond is \$335,000.00.			
<input type="checkbox"/>	PTC	Guardian - waives			
<input type="checkbox"/>	Not.Cred.	Attorney - \$4,371.63			
<input checked="" type="checkbox"/>	Notice of Hrg	Petitioner prays for an Order:			
<input checked="" type="checkbox"/>	Aff.Mail	1. Approving, allowing and settling the first account and report;			
<input type="checkbox"/>	Aff.Pub.	2. Authorizing payment of attorney fees in the sum of \$4,371.63.			
<input type="checkbox"/>	Sp.Ntc.				
<input type="checkbox"/>	Pers.Serv.				
<input type="checkbox"/>	Conf. Screen				
<input type="checkbox"/>	Letters				
<input type="checkbox"/>	Duties/Supp				
<input type="checkbox"/>	Objections				
<input type="checkbox"/>	Video Receipt				
<input type="checkbox"/>	CI Report				
<input checked="" type="checkbox"/>	2620(c)				
<input type="checkbox"/>	Order	X			
<input type="checkbox"/>	Aff. Posting				
<input type="checkbox"/>	Status Rpt				
<input type="checkbox"/>	UCCJEA				
<input type="checkbox"/>	Citation				
<input type="checkbox"/>	FTB Notice				
				Reviewed by: KT	
				Reviewed on: 12/9/13	
				Updates:	
				Recommendation:	
				File 3 – Maffeo	

Atty Sanoian, Joanne (for Petitioner/Guardian Marleen C. Maffeo (1) First Account and Report of Guardian, (2) Petition for Attorneys Fees [Prob. C. 2620]

Age: 9 years		MARLEEN C. MAFFEO , mother/guardian, is petitioner.	NEEDS/PROBLEMS/COMMENTS: 4. Need declaration in support of attorney fees. California Rules of Court, Rule 7.751. 5. Need schedule listing the property on hand at the fair market value. Probate Code § 1063(a). (Note: Bank statements show that the current value of the stocks and securities is \$148,652.28. Therefore the fair market value of the estate would total \$389,256.77. This would mean that the bond should be increased to \$440,580.00) 6. Need proposed order Note: If the petition is granted, status hearings will be set as follows: • Friday, September 11, 2015 at 9:00 a.m. in Department 303, for the filing of the second account. Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior the date set the status hearing will come off calendar and no appearance will be required.
		Account period: 7/18/12 – 7/17/13	
Cont. from		Accounting - \$246,855.69	
<input type="checkbox"/>	Aff.Sub.Wit.	Beginning POH - \$235,589.46	
<input checked="" type="checkbox"/>	Verified	Ending POH - \$242,776.50	
<input type="checkbox"/>	Inventory	Current bond is \$335,000.00.	
<input type="checkbox"/>	PTC	Guardian - waives	
<input type="checkbox"/>	Not.Cred.	Attorney - \$4,371.63	
<input checked="" type="checkbox"/>	Notice of Hrg	Petitioner prays for an Order:	
<input checked="" type="checkbox"/>	Aff.Mail	3. Approving, allowing and settling the first account and report;	
<input type="checkbox"/>	Aff.Pub.	4. Authorizing payment of attorney fees in the sum of \$4,371.63.	
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input checked="" type="checkbox"/>	2620(c)		
<input type="checkbox"/>	Order	X	
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
			Reviewed by: KT
			Reviewed on: 12/9/13
			Updates:
			Recommendation:
			File 4 – Maffeo

Atty Wall, Jeffrey L., sole practitioner (for Petitioner Steven W. Souza, Administrator)

(1) First and Final Report of Administrator and Petition for Its Approval, (2) for Allowance of Attorney Fee and (3) for Final Distribution Upon Waiver of Accounting

DOD: 3/20/2012		STEVEN W. SOUZA , son and Administrator, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
		Accounting is waived.	
Cont. from		I & A — \$180,000.00	1. Need Notice of Hearing of and proof of mailed service of 15 days' notice prior to hearing pursuant to Probate Code §§ 11000 and 11601 for the following persons: <ul style="list-style-type: none"> • Louie Lee Souza; • Manuel J. Souza, Jr.
<input type="checkbox"/>	Aff.Sub.Wit.	POH — \$180,000.00 (real property)	
<input checked="" type="checkbox"/>	Verified		
<input checked="" type="checkbox"/>	Inventory	Administrator — waives	
<input checked="" type="checkbox"/>	PTC	Attorney — \$5,500.00 (less than \$6,400.00 statutory; to be paid outside probate.)	
<input checked="" type="checkbox"/>	Not.Cred.		
<input type="checkbox"/>	Notice of Hrg	X	
<input type="checkbox"/>	Aff.Mail	X	
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters	041013	
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input checked="" type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input checked="" type="checkbox"/>	FTB Notice		
			Reviewed by: LEG
			Reviewed on: 12/6/13
			Updates:
			Recommendation:
			File 5 – Souza

**Petition for Probate of Will and for Letters Testamentary; Authorization to
Administer Under IAEA (Prob. C. 8002, 10450)**

DOD: 09/28/2011		ESTELLA G. GARZA and RAQUEL G. NUNEZ , request that ESTELA G. GARZA, RAQUEL G. NUNEZ , and ROJELIA G. GONZALEZ , daughters, be appointed co-executors without bond. Full IAEA - ? Will dated: 09/27/2001 Residence: Parlier Publication: Need	NEEDS/PROBLEMS/COMMENTS: 1. Original Will is attached to the petition. Pursuant to Probate Code §8200(a)(1) the original will is to be deposited with the Court. 2. Will is not self-proving. Need proof of Subscribing Witness. 3. Need name and date of death of the decedent's spouse pursuant to Local Rule 7.1.1D. 4. Need proof of service of Notice of Petition to Administer Estate on Teodora Garza Garza. Note: Teodora Garza Garza was served in care of Estella Garza Garza, Trustee. Service in care of another person is insufficient pursuant to CA Rules of Court 7.51(a)(1). 5. Need Affidavit of Publication. 6. Need Duties & Liabilities of Personal Representative. 7. Need Confidential Supplement to Duties & Liabilities of Personal Representative. 8. #5a(3) or 5a(4) was not answered regarding domestic partner. 9. #5a(7) or 5a(8) of the Petition was not answered regarding issue of predeceased child. 10. Need Letters. 11. Need Order. Please see additional page for Status Hearings
Cont. from			
<input type="checkbox"/> Aff.Sub.Wit.	<input checked="" type="checkbox"/>		
<input checked="" type="checkbox"/> Verified			
<input type="checkbox"/> Inventory			
<input type="checkbox"/> PTC			
<input type="checkbox"/> Not.Cred.			
<input checked="" type="checkbox"/> Notice of Hrg			
<input checked="" type="checkbox"/> Aff.Mail	w/		
<input type="checkbox"/> Aff.Pub.	<input checked="" type="checkbox"/>		
<input type="checkbox"/> Sp.Ntc.		Estimated value of the Estate: Personal property - \$20,880.00 Real property - \$272,907.00 Total - \$293,787.00 Probate Referee: Steven Diebert	
<input type="checkbox"/> Pers.Serv.			
<input type="checkbox"/> Conf. Screen			
<input type="checkbox"/> Letters	<input checked="" type="checkbox"/>		
<input type="checkbox"/> Duties/Supp	<input checked="" type="checkbox"/>		
<input type="checkbox"/> Objections			
<input type="checkbox"/> Video Receipt			
<input type="checkbox"/> CI Report			
<input type="checkbox"/> 9202			
<input type="checkbox"/> Order	<input checked="" type="checkbox"/>		
<input type="checkbox"/> Aff. Posting		Reviewed by: LV Reviewed on: 12/06/2013 Updates: Recommendation: File 6 – Garza	
<input type="checkbox"/> Status Rpt			
<input type="checkbox"/> UCCJEA			
<input type="checkbox"/> Citation			
<input type="checkbox"/> FTB Notice			

Note: If the petition is granted status hearings will be set as follows:

- **Friday, 05/09/2014 at 9:00a.m. in Dept. 303** for the filing of the inventory and appraisal **and**
- **Friday, 02/13/2015 at 9:00a.m. in Dept. 303** for the filing of the first account and final distribution.

Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.

Atty
Atty
Atty

Sanoian, Joanne (for Petitioner Trevor A. Smith)

Betts, James B. (for Objector Susette Ishizuka)

Willoughby, Hugh (for Objectors Faith Ishizuka and Stephanie Ishizuka)

Petition for Confirmation of Trustee's Fees and for Imposition of Constructive Trust
[Prob. C. 16420(a)(8), 17200 et seq.]

Mary Ishizuka (Settlor) DOD: 12-26-04		<p>TREVOR A. SMITH, widower and Administrator Of the Estate of Cathy D. Imai, is Petitioner.</p> <p>Petitioner states prior to her death, Cathy D. Imai was the acting trustee of the Mary Ishizuka Living Trust dated 3-27-92 as amended 11-27-04. On behalf of Ms. Imai's estate, Petitioner brings this petition against the trust beneficiaries LIANN ISHIZUKA, FAITH DAPHNE ISHIZUKA, and STEPHANIE ISHIZUKA.</p> <p>Petitioner states venue is proper in Fresno County because the last acting successor trustee, SUSETTE ISHIZUKA, resides in Fresno County.</p> <p>Petitioner states Ms. Imai served as successor trustee for approx. 4½ years in Ventura County until her death. Pursuant to the trust. Beneficiary Liann Ishizuka would receive ½ of the trust assets and beneficiaries Daphne Faith Ishizuka and Faith Ishizuka would each receive ¼ of the trust assets. No beneficiary would receive the entirety of her distribution until age 21. As trustee, Ms. Imai's duties included making numerous distributions to payees related to beneficiaries' schooling and education, renovating and selling the trust's real property, and preparing and filing annual tax returns. Ms. Imai, who was a bookkeeper and tax preparer by profession in both Los Angeles and Ventura Counties, diligently administered the trust for those 4½ years and kept detailed, meticulous records of all trust activities. At the time of her death, Ms. Imai had not been paid all of her earned trustee fees for acting as successor trustee for the years 2005, 2006, 2007, 2008, and 2009, and totaling \$40,478.88 (see footnote in petition re calculation reached with assistance of CPA).</p> <p>Petitioner states that at Ms. Imai's death and during the fall of 2010, Petitioner, through his attorney William Bullis, advised the named successor trustees of the trust, JUN FUKISHIMA and SUSETTE ISHIZUKA, that Ms. Imai had passed away and that it was necessary for one of them to take over as successor trustee. Mr. Bullis further indicated that Ms. Imai's trustee fees and costs were owing for 2005-2009. No response was received from the named successor trustees.</p> <p style="text-align: center;"><u>SEE ADDITIONAL PAGES</u></p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Note: These Examiner Notes are a synopsis of the Petition referenced above and Objections thereto. This is <u>not</u> a review of the accounting statements and documentation provided as exhibits to the petition and referenced in the objections with reference to the various distributions and payments made.</p> <ol style="list-style-type: none"> 1. The petition does not include the list of names and addresses of each person entitled to notice of the petition as required by Probate Code §17201. 2. The Court may require clarification regarding the details of the civil case 12CECG03404 as referenced in the Objection and Request for Judicial Notice. 3. The Court may require clarification regarding Petitioner's authority and standing to bring this petition under as Administrator of the Estate of Cathy D. Imai, with reference to Probate Code §§ 16420(a) and 17200. 	
Cathy D. Imai (Trustee) DOD: 5-8-10				
	Aff.Sub.Wit.			
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
✓	Notice of Hrg			
✓	Aff.Mail			W
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			
	Conf. Screen			
	Letters			
	Duties/Supp			
✓	Objections			
	Video Receipt			
	CI Report			
	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			
			<p>Reviewed by: skc</p> <p>Reviewed on: 12-9-13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 7 – Ishizuka</p>	

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In late 2010, at the request of beneficiary Liann Ishizuka, Petitioner caused both a formal and informal accounting to be prepared for the years that Ms. Imai served as trustee (December 2004 through October 31, 2010), which were sent to the beneficiaries in December 2010. One of the accountings was prepared by Ventura County CPA Lou Torres. No response or objection was received to the accountings, both of which included the amount of Ms. Imai's owing trustee fees.

In early September 2011, Petitioner was advised by Susette Ishizuka that she had taken over as successor trustee on 8-11-11, and in her capacity as successor trustee had distributed the entirety of the trust assets to the beneficiaries.

Ms. Imai's fees and costs remain unpaid and owing pursuant to the trust's terms. Paragraph 8.06 of the trust reads: "All Trustees shall be entitled to reasonable compensation for services rendered and reimbursement for reasonable out-of-pocket costs in connection with the administration of this Trust." Ms. Imai was never paid her earned trustee fees for management and administration for 2005 through 2009. Ms. Imai marketed and sold the Trust's real property, dutifully answered to the ongoing requests of the beneficiaries, made numerous payments out of the Trust for the educational benefit of the beneficiaries, prepared the Trust's tax returns, and as stated, maintained detailed and accurate records of the Trust's activity.

While the trust mandates that Ms. Imai receive a trustee's fee for her work, the trust is silent on the amount of the fees. Petitioner cites Probate Code §§ 15681 and 15684 for factors for consideration in determining reasonable compensation. Petitioner states the fees requested are extremely reasonable, averaging approx. \$705.00/month for each of the 4 ½ years, which calculates to approx. 10 hours/month at \$70.00/hr. This amount is would be deemed very reasonable for the oversight of the most simple trust. This trust, on the other hand, which at her death had an approx. value of \$720,000.00, was not a trust in which the assets were simply to be distributed upon the settlor's death. It was necessary for Ms. Imai to oversee and administer the trust prior to the beneficiaries reaching a certain age. Ms. Imai made multiple payments on behalf of the beneficiaries, kept in contact, and was consistently responsive to their needs and questions. In addition, she utilized her professional skills and expertise in preparing and filing the trust's tax returns. Administration did require more than an ordinary person's skill and judgment, and Ms. Imai was loyal to the trust and beneficiaries through her administration and maintained details records. Her earned and outstanding fees should be confirmed by the Court.

The Court may impose equitable remedy of a constructive trust on the previously distributed trust assets for the amount of Ms. Imai's trustee's fees and costs. Authority cited.

Petitioner requests:

- 1. Court confirmation of Ms. Imai's earned trustee fees and costs for the years 2005 through 2009 totaling \$40,478.88;**
- 2. Imposition of a constructive trust in the amount of the confirmed trustee fees and costs, on the assets of the three beneficiaries, LIANN ISHIZUKA, FAITH DAPHNE ISHIZUKA, and STEPHANIE ISHIZUKA, which constitute and/or consist of the confirmed trustee fees and costs; and**
- 3. For any further orders that the Court deems just and proper.**

SEE ADDITIONAL PAGES

Page 3

Objection filed 12-2-13 by Susette Ishizuka, successor trustee, states that during Ms. Imai's tenure, she failed to provide annual accountings as required by Probate Code § 16062. To this date, a full accounting with detail on transactions has not been provided. Ms. Ishizuka received only summary profit and loss statements, balance sheets, and the list of distributions attached to the petition. A detailed accounting has never been provided to the successor trustee. As such, Ms. Ishizuka has never been privy to the "detailed, meticulous records of all trust activities" as averred to have been maintained by Ms. Imai.

Moreover, while the trust required distributions of the balance of the estate to the beneficiaries at the age of 21, Ms. Imai failed to do so. For instance, Liann Ishizuka reached the age of 21 on 11-8-09, yet the trustee failed to make the distribution required by the trust. Ms. Imai died in or about May 2010. In late 2010, her estate transferred trustee duties to Susette Ishizuka. Since the beneficiaries were over 21 and distribution was overdue, the balance was distributed as required by the trust.

Prior to this transaction and unbeknownst to the beneficiaries (as annual accountings were not provided), Ms. Imai individually and through an affiliated entity had already collected \$42,625 in fees, \$27,625 in bookkeeping, tax preparation and accounting fees and an executor fee of \$15,000. See Exhibit A to Declaration. Now, Petitioner wants more and believes that it is reasonable to collect additional trustee fees and bookkeeping costs of \$40,478.88, even after the transition of trustees and distribution to beneficiaries of the trust assets as required by the trust.

The Court should deny this petition for the following reasons:

- 1. Notice was procedurally defective.** The petition should be denied or continued to afford the beneficiaries an opportunity to be heard;
- 2. Petitioner lacks standing.** A claim to establish a constructive trust can only be asserted by a trustee or beneficiary. Petitioner is not authorized to assert these claims. He was at no time a trustee or beneficiary and there is no foundational support in the petition that Mr. Smith is authorized to represent and administer claims on behalf of the past trustee. Even assuming arguendo that such authority exists, Ms. Imai nor her estate erve as trustee as authority has been transferred and assets distributed. Neither Mr. Smith nor the Estate of Cathy D. Imai remain trustees and have the requisite standing to assert these claims. See Probate Code §§ 16420(a) and 17200(a).
- 3. Petitioner's claims are untimely and stale. These claims are barred by the statute of limitations and the doctrine of laches.** Petitioner is seeking payment for trustee fees, accounting costs and bookkeeping costs for services rendered from 2005-2009. During said time, the trustee and an affiliated entity were regularly paid by the trust for bookkeeping, accounting, tax preparation and executor fees in an amount totaling \$42,625.00. While 4-8 years have passed since delivery of these services, Peittioner is improperly seeking to collect additional sums for fees and costs allegedly earned from 2005-2009. Even assuming arguendo a four year statute (CCP §337), this claim and demand is stale and untimely.

SEE ADDITIONAL PAGES

4. PETITIONER HAS PREVIOUSLY LITIGATED AND DIMSISSED THE CLAIMS. SEE REQUEST FOR JUDICIAL NOTICE AND FRESNO COUNTY SUPERIOR COURT CASE NUMBER 12CECG03404 DATED 5-2-13.

As discussed in the standing section above, Petitioner does not have standing to assert these claims by statute. At best, his stale claims would be tantamount to a creditor claim that would not constitute a probate dispute. Such claims have been previously asserted and litigated in a separate civil action. In the prior action, Petitioner sought to recover the same trustee fees against the successor trustees and beneficiaries. The claims against the successor trustees, individually and in their representative capacity, have been dismissed with prejudice. Petitioner should not now be permitted to reassert and re-litigate these issues as a probate matter.

5. PETITIONER'S ADDITIONAL FEE REQUESTS ARE NOT SUPPORTED OR REASONABLE. Beyond the \$42,625 already collected by Ms. Imai and her affiliated entities, Petitioner somehow contends he is entitled to receive an additional \$42,978 in trustee and bookkeeping fees as reasonable compensation for trustee services. Petitioner has failed to offer supporting evidence to justify these additional fees, such as timesheets and records to legitimize this hefty claim. Rather, he elected to simply reference general areas of work performed. As previously noted, Ms. Imai or her affiliates have been well compensated in the past for these services. Lacking supporting evidence, Petitioner seeks to inflate these fees by calculating a sum based on a percentage of trust assets, and utilizes the rate structure set forth in Probate Code § 10800 to generate a fee. What results is an exaggerated fee, a four (4) times multiplier on what a personal representative would generally be paid. There is no evidence to justify and support such extravagant compensation and Petitioner fails to offset all compensation.

For the reasons above, the trustee has been paid reasonable compensation and there are no additional fees to be confirmed or awarded. Objector Susette Ishizuka respectfully requests the Court deny the petition and requests fees and costs relating to this petition and such other relief as the Court may deem proper.

Objection filed 12-3-13 by beneficiaries Faith Ishizuka and Stephanie Ishizuka denies that Ms. Imai was not paid and that the amount calculated is owing. Objectors object to the accounting covering the period of December 2004 through October 2010 and state the fees claimed are unreasonable and excessive as the calculation method is the method used for personal representatives exceeds what is reasonable in a trust, and are not substantiated by itemization, etc. The accounting shows payments in excess of \$27,000 over the six years for income tax preparation, and there is no itemization in this request.

If Ms. Imai did, in fact, prepare the returns, then the above-noted expenditure for tax preparation fees should be explained and/or disallowed. There is no explanation as to the identity of "J. Takano," listed as a recipient of a trust distribution in the amount of \$3,744.79, despite the fact that there does not appear to be a "J. Takano" listed as a beneficiary.

Objectors pray for an order that the petition not be granted as filed, that the petitioner be ordered forthwith to render a true, correct and legally sufficient verified account; for costs of suit incurred herein; and for such other and further relief as to the court seems just and proper in the premises.

DOD: 10/15/2007		JAMES RONNIE MERCER , surviving spouse is petitioner.	NEEDS/PROBLEMS/COMMENTS:	
		No other proceedings.	1. Petition does not set forth enough facts for the Court to determine that it is indeed community property. Need Attachment 7 setting forth the following: <ul style="list-style-type: none"> a. The date the petitioner and decedent were married. b. The date the property was acquired. c. That all the property the petitioner is asking to pass was acquired during the marriage using community property funds and was not received by gift, devise or bequest. 	
		Decedent died intestate.		
Cont. from		Petitioner requests Court determination that decedent's ¼ interest of the property located at 901 S. 2 nd Street, Kerman, Ca. and decedent' ½ interest of the property located at 15452 W. "A" St. Kerman, Ca. pass to the petitioner.		
<input type="checkbox"/>	Aff.Sub.Wit.			
<input checked="" type="checkbox"/>	Verified			
<input type="checkbox"/>	Inventory			
<input type="checkbox"/>	PTC			
<input type="checkbox"/>	Not.Cred.			
<input checked="" type="checkbox"/>	Notice of Hrg			
<input checked="" type="checkbox"/>	Aff.Mail			w/
<input type="checkbox"/>	Aff.Pub.			
<input type="checkbox"/>	Sp.Ntc.			
<input type="checkbox"/>	Pers.Serv.			
<input type="checkbox"/>	Conf. Screen			
<input type="checkbox"/>	Letters			
<input type="checkbox"/>	Duties/Supp			
<input type="checkbox"/>	Objections			
<input type="checkbox"/>	Video Receipt			
<input type="checkbox"/>	CI Report			
<input type="checkbox"/>	9202			
<input type="checkbox"/>	Order			
<input type="checkbox"/>	Aff. Posting			
<input type="checkbox"/>	Status Rpt			
<input type="checkbox"/>	UCCJEA			
<input type="checkbox"/>	Citation			
<input type="checkbox"/>	FTB Notice			
			Reviewed by: LV	
			Reviewed on: 12/09/2013	
			Updates:	
			Recommendation:	
			File 8 – Mercer	

DOD: 7-9-10		<p>LYNETTE LUCILLE DUSTON and WARREN LESLIE DAVIS filed Second Amended Petition for: (1) Removal of Mary M. Davis as Executor of the Estate; (2) Compelling Account and Report of Administration of Estate; (3) Appointment of Lynette Lucille Duston and Warren Leslie Davis as Successor Co-Executors of Estate.</p> <p>MARY M. DAVIS, Executor, filed Amended First and Final Account and Report of Executor and Amendment to Petition for its Settlement, for Allowance of Ordinary Executor Commissions, Ordinary and Extraordinary Attorneys' Fees and for Final Distribution.</p> <p>At settlement conference on 10-29-13, the parties reached complete resolution of all claims known and unknown. Upon inquiry by the Court, each party individually agreed to the terms and conditions of the settlement. Counsel was directed to prepare the necessary documents.</p> <p>The Court set status hearing re settlement agreement for 11-18-13.</p> <p>On 11-18-13, the Court was advised that the documents were being circulated. The Court set this status hearing Re: Second Account and All Pending Matters.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> 1. Need Settlement Agreement. 2. Need Order for Final Distribution.
Aff.Sub.Wit.			
Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			
		Reviewed by: skc	
		Reviewed on: 12-9-13	
		Updates:	
		Recommendation:	
		File 9 – Davis	

10 **Isaiah Vara Gonzales & Heavens Vara (GUARD/P) Case No. 00CEPR10433**

Atty Vara, Jose C. (pro per – maternal grandfather/Petitioner)

Atty Vara, Ramona (pro per – maternal grandmother/Petitioner)

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Isaiah, 14	<u>TEMPORARY EXPIRES 12/10/13</u>	NEEDS/PROBLEMS/COMMENTS:
Heavens, 7	JOSE VARA and RAMONA VARA , maternal grandparents, are Petitioners.	This Petition pertains to Heavens Vara only. Petitioners were appointed as guardians of Isaiah on 11/30/2000.
	Father: UNKNOWN – <i>Declaration of Due Diligence filed 11/01/13*</i>	1. Need proof of service at least 15 years before the hearing of <i>Notice of Hearing</i> with a copy of the <i>Petition for Appointment of Guardian of the Person</i> or <i>Consent & Waiver of Notice</i> or <i>Declaration of Due Diligence</i> for:
Cont. from	Mother: JOSEPHINA VARA SANCHEZ – <i>Personally served on 10/14/13</i>	- Father (unknown) – Personal service required, unless diligence is found.
<input type="checkbox"/> Aff.Sub.Wit.	Paternal grandfather: UNKNOWN Paternal grandmother: UNKNOWN	*Declaration of Due Diligence filed 11/01/13 states that the father has never been involved with the minor and his whereabouts are unknown. <u>The Declaration of Due Diligence is not signed/verified.</u>
<input checked="" type="checkbox"/> Verified		- Paternal grandparents (unknown) – Service by mail sufficient.
<input type="checkbox"/> Inventory		
<input type="checkbox"/> PTC		
<input type="checkbox"/> Not.Cred.		
<input checked="" type="checkbox"/> Notice of Hrg	Petitioners state that Heavens has lived with them since birth. CPS recently was involved with the mother and have placed some of the mother's other children with them. Mother is currently in drug rehab. The father is unknown and has never been in the minor's life.	
<input type="checkbox"/> Aff.Mail		
<input type="checkbox"/> Aff.Pub.		
<input type="checkbox"/> Sp.Ntc.		
<input checked="" type="checkbox"/> Pers.Serv.		
<input checked="" type="checkbox"/> Conf. Screen		
<input checked="" type="checkbox"/> Letters	Court Investigator Jennifer Daniel filed a report on 12/04/13.	
<input checked="" type="checkbox"/> Duties/Supp		
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input checked="" type="checkbox"/> CI Report		
<input type="checkbox"/> 9202		
<input checked="" type="checkbox"/> Order		
<input type="checkbox"/> Aff. Posting		
<input type="checkbox"/> Status Rpt		
<input checked="" type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		
		Reviewed by: JF
		Reviewed on: 12/09/13
		Updates:
		Recommendation:
		File 10 – Vara

Pro Per

Bautista, Felipe (Pro Per Petitioner, father)

Petition for Visitation

Age: 8 years		FELIPE BAUTISTA , father, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: Notes: <ul style="list-style-type: none">Father's visitation rights were terminated by the Court on 9/30/2013 (please refer to notes at center.)Guardian Maria Bautista was assisted by Elizabeth Bautista interpreting to her in the Spanish language at the last hearing. 1. Need <i>Notice of Hearing</i> and proof of service of the notice for: <ul style="list-style-type: none">a. Maria Bautista, Guardian;b. Vanessa Nicole Noriega, mother;c. Antonio Bautista, paternal grandfather;d. Victor Manuel Noriega, maternal grandfather;e. Kathy Ann Noriega, maternal grandmother. Note: Previous visitation per Minute Order dated 5/8/2012 was: Father shall have no unsupervised visits with the child. Visitation with father shall be supervised by either the paternal grandfather or the paternal step-grandmother. There shall be no unsupervised visits around the father's wife.
		MARIA BAUTISTA , paternal grandmother, was appointed Guardian on 5/8/2006.	
		Father: FELIPE E. BAUTISTA Mother: VANESSA NICOLE NORIEGA	
Cont. from		Paternal grandfather: Antonio Bautista. <i>Deceased.</i>	
<input type="checkbox"/>	Aff.Sub.Wit.	Maternal grandfather: Victor Manuel Noriega	
<input checked="" type="checkbox"/>	Verified	Maternal Grandmother: Kathy Ann Noriega	
<input type="checkbox"/>	Inventory	Petitioner states he would like his visits back. Petitioner states he was not served the right way, and didn't have the right Court date. Petitioner states he is the father and his son wants to see him, and he would like to see his son, too. Petitioner states he loves his son and he wants their relationship back.	
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input type="checkbox"/>	Notice of Hrg	<input checked="" type="checkbox"/>	
<input type="checkbox"/>	Aff.Mail	<input checked="" type="checkbox"/>	
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
			Reviewed by: LEG
			Reviewed on: 12/9/13
			Updates:
			Recommendation:
			File 11 – Bautista

Atty Williams, Jasmine T. (pro per – mother/Petitioner)

Petition for Termination of Guardianship

Xazavier, 14		JASMINE WILLIAMS, mother, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: This Petition pertains to Xazavier only. Maria is now 18 years old. <u>CONTINUED FROM 10/29/13</u> Minute Order from 10/29/13 states: Ms. Williams is appearing via CourtCall. Ms. Williams is directed to provide notice to the appropriate parties. Matter is continued to 12/10/13. The guardian is directed to be present with Xazavier at the next hearing. As of 12/09/13, nothing further has been filed and the following notes remain: 1. Need Notice of Hearing. 2. Need proof of service by mail at least 15 days before the hearing of Notice of Hearing with a copy of the Petition for Termination of Guardianship or Consent & Waiver of Notice or Declaration of Due Diligence for: - Genice Whittle (paternal grandmother) - Darrell Richardson (father) - Paternal grandfather (unknown) - George Williams (maternal grandfather) - Xazavier Williams (minor) - Maria Williams-Richardson (sibling) - Maurice Richardson (sibling)
		GENICE WHITTLE, paternal grandmother, was appointed guardian on 06/11/12.	
		Father: DARRELL RICHARDSON	
		Paternal grandfather: UNKNOWN	
		Maternal grandfather: GEORGE WILLIAMS	
		Maternal grandmother: DECEASED	
Cont. from 100813, 102913			
	Aff.Sub.Wit.		
✓	Verified		
	Inventory		
	PTC		
	Not.Cred.		
	Notice of Hrg	x	
	Aff.Mail	x	
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
✓	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
			Reviewed by: JF
			Reviewed on: 12/09/13
			Updates:
			Recommendation:
			File 12 – Williams - Richardson

Age: 3		<u>TEMPORARY EXPIRES 12/10/2013</u>		NEEDS/PROBLEMS/COMMENTS:	
		JEANETTE ORTEGA , maternal grandmother, is Petitioner.		Minute Order of 11/19/2013: The Court directs the Petition to file a declaration of due diligence as to the mother.	
Cont. from 111913		Father: DONNY BARNs		Minute Order of 10/01/2013: Ms. Ortega is advised that the father will need to be personally served. Ms. Ortega informs the Court that she is currently attending AA meetings four times per week. The CI is ordered to meet with Ms. Ortega to obtain the name of her sponsor. Based on Ms. Ortega's representation that she is currently attending AA meetings; has obtained a three bedroom residence, and CPS is looking to place the new baby in her care, the Court grants the petition.	
	Aff.Sub.Wit.				
✓	Verified	Mother: VANITY SUAREZ			
	Inventory	Paternal grandparents: NOT LISTED			
	PTC				
	Not.Cred.	Maternal grandfather: NOT LISTED			
	Notice of Hrg	X	Petitioner states that she was previously appointed temporary guardian, but missed the hearing for the permanent guardianship. She states that the mother is on drugs. She states the child has been residing with her off and on since birth and she is provided a stable drug-free home, she has her own room and is in a Head Start Program.		
	Aff.Mail	X			
	Aff.Pub.				
	Sp.Ntc.				
	Pers.Serv.	X			
✓	Conf. Screen		Court Investigator Jo Ann Morris' report filed 11/07/2013.		
✓	Letters				
✓	Duties/Supp				
	Objections				
	Video Receipt				
✓	CI Report				
	9202				
✓	Order				
	Aff. Posting				
	Status Rpt				
✓	UCCJEA				
	Citation				
	FTB Notice				
				Reviewed by: LV	
				Reviewed on: 12/09/2013	
				Updates:	
				Recommendation:	
				File 13 – Barns	

Bradley, 7	TEMPORARY EXPIRES 12/10/13		NEEDS/PROBLEMS/COMMENTS:
Bryton, 10 months			
			1. Need <i>Notice of Hearing</i> .
Cont. from			2. Need proof of personal service of <i>Notice of Hearing</i> with a copy of the <i>Guardianship Petition</i> at least 15 days before the hearing <u>or</u> Consent & Waiver of Notice <u>or</u> Declaration of Due Diligence for:
Aff.Sub.Wit.	Father: BOBBIE PEREZ Mother: BRANDI PEREZ		
✓ Verified	Paternal grandfather: DAN PEREZ Paternal grandmother: LINDA PEREZ		a. Bobbie Perez (father) b. Brandi Perez (mother)
Inventory	Maternal grandfather: DANIEL WINELAND		
PTC			3. Need proof service of Notice of Hearing with a copy of the <i>Guardianship Petition</i> at least 15 days before the hearing or Consent & Waiver of Notice or Declaration of Due Diligence for:
Not.Cred.			
Notice of Hrg	x	<p>Petitioner states that the children have lived with her since birth. Their mother has a significant drug addiction and left the home 2 weeks ago. They have not heard from her or been able to reach her since she left. Their father has not been involved in the children's lives and Petitioner believes he is living somewhere up north growing marijuana.</p> <p>Court Investigator Samantha D. Henson's report filed 12/03/2013.</p>	a. Dan Perez (Paternal Grandfather) b. Linda Perez (Paternal Grandmother) c. Daniel Wineland (Maternal Grandfather)
Aff.Mail	x		
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.	x		
✓ Conf. Screen			
✓ Letters			
✓ Duties/Supp			
Objections			
Video Receipt			
✓ CI Report			
9202			
✓ Order			
Aff. Posting			
Status Rpt			
✓ UCCJEA			
Citation			
FTB Notice			
			Reviewed by: LV
			Reviewed on: 12/09/2013
			Updates:
			Recommendation:
			File 14 – Perez

Age: 9		<p align="center"><u>NO TEMPORARY REQUESTED</u></p> <p>JANET LYNN MOORE, maternal grandmother is petitioner.</p> <p>Father: CHRISTOPHER DAVID PACKER, Consents and Waives Notice</p> <p>Mother: SUSAN GALE MORRIS, Consents and Waives Notice</p> <p>Paternal Grandfather: Deceased Paternal Grandmother: Robin Renee Davidson, Consents and Waives Notice</p> <p>Maternal Grandfather: Brian Dale Morris, Consents and Waives Notice</p> <p>Petitioner states: the minor has resided with the petitioner since she was 8 months old, she is now 9. Her mother was on drugs and neglecting her so petitioner brought the child to her home thinking the mother would get clean, however, more trouble came. Since then the mother has completed a program at Evangel Home. When she left there approximately two years ago she took up residency with a registered sex offender with child under 14 and she intends to marry him. Petitioner feels the child deserves a stable home environment, not around sex offender.</p> <p>Court Investigator Jennifer Daniel's report filed 12/03/2013.</p>	NEEDS/PROBLEMS/COMMENTS:	
Cont. from				
<input type="checkbox"/>	Aff.Sub.Wit.			
<input checked="" type="checkbox"/>	Verified			
<input type="checkbox"/>	Inventory			
<input type="checkbox"/>	PTC			
<input type="checkbox"/>	Not.Cred.			
<input type="checkbox"/>	Notice of Hrg			n/a
<input type="checkbox"/>	Aff.Mail			n/a
<input type="checkbox"/>	Aff.Pub.			
<input type="checkbox"/>	Sp.Ntc.			
<input type="checkbox"/>	Pers.Serv.			n/a
<input checked="" type="checkbox"/>	Conf. Screen			
<input checked="" type="checkbox"/>	Letters			
<input checked="" type="checkbox"/>	Duties/Supp			
<input type="checkbox"/>	Objections			
<input type="checkbox"/>	Video Receipt			
<input checked="" type="checkbox"/>	CI Report			
<input type="checkbox"/>	9202			
<input checked="" type="checkbox"/>	Order			
<input type="checkbox"/>	Aff. Posting			
<input type="checkbox"/>	Status Rpt			
<input checked="" type="checkbox"/>	UCCJEA			
<input type="checkbox"/>	Citation			
<input type="checkbox"/>	FTB Notice			
				Reviewed by: LV Reviewed on: 12/09/2013 Updates: Recommendation: File 15 – Packer

Petition for Appointment of Temporary Guardianship of the Person (Prob. C. 2250)

Age: 4		GENERAL HEARING 01/27/14		NEEDS/PROBLEMS/COMMENTS:	
		LEONARDA SOTO , paternal grandmother, is Petitioner.		1. Need proof of personal service of <i>Notice of Hearing</i> with a copy of the <i>Petition for Appointment of Temporary Guardian of the Person</i> <u>or</u> Consent & Waiver of Notice <u>or</u> Declaration of Due Diligence for: a. Ceasar Soto (father)* - Proof of service by mail filed 11/27/13 is insufficient. Personal service required and the Proof of service does not indicate that a copy of the <i>Petition</i> was mailed with the Notice of Hearing. b. Yoana Delgadillo (mother) 2. Need <i>Confidential Guardian Screening Form</i> . Note: Petitioner filed a Confidential Conservator Screening Form that is incomplete. This is the incorrect form.	
		Father: CEASAR J. SOTO – Served by mail on 11/27/13			
		Mother: YOANA ALVAREZ DELGADILLO			
		Paternal grandfather: MANUEL SOTO GARCIA – Served by mail on 11/27/13			
		Maternal grandfather: UNKNOWN			
		Maternal grandmother: CLAUDIA DELGADILLO			
Cont. from		Petitioner states the parents are both in Mexico. The mother has drug abuse issues and the father was deported. Petitioner states that the child was in Mexico also but came back with her great grandmother. The great grandmother has now returned to Mexico and the child has lived with Petitioner and also been visiting with her maternal aunt. Petitioner alleges that the maternal aunt has several people living in her small 2 bedroom apartment and there is no space for the minor. Petitioner requests temporary guardianship so that she can provide consistency in the child's life.			
	Aff.Sub.Wit.				
✓	Verified				
	Inventory				
	PTC				
	Not.Cred.				
✓	Notice of Hrg				
✓	Aff.Mail			w/o	
	Aff.Pub.				
	Sp.Ntc.				
	Pers.Serv.			x	
	Conf. Screen			x	
✓	Letters				
✓	Duties/Supp				
	Objections				
	Video Receipt				
	CI Report				
	9202				
✓	Order				
	Aff. Posting				
	Status Rpt				
✓	UCCJEA				
	Citation				
	FTB Notice				
				Reviewed by: JF	
				Reviewed on: 12/09/13	
				Updates:	
				Recommendation:	
				File 16 – Soto	

17 **Martha Celeste Patrick (CONS/P)**
 Atty Ramirez-Baker, Donna M. (pro per Petitioner/daughter)
 Atty Rindlisbacher, Curtis (court appointed for conservatee)

Case No. 13CEPR01035

Petition for Appointment of Temporary Conservator of the Person (Prob. C. 2250)

Age: 75 years		<u>GENERAL HEARING 1/14/2014</u>		NEEDS/PROBLEMS/COMMENTS:		
		<p>DONNA M. RAMIREZ-BAKER, daughter is petitioner and requests appointment as temporary conservator of the person.</p>		<p>1. Need proof of personal service of the Notice of Hearing along with a copy of the temporary petition on: a. Martha Elizabeth Patrick (proposed conservatee)</p>		
Cont. from		<p>Petitioner states a temporary conservator is needed to provide for her temporary care, maintenance and support. The proposed conservatee has a diagnosis of dementia. She is combative and uncooperative. According to her doctor she need psychotropic medications to control her agitation and psychotic symptoms. Her social worker advised petitioner to seek a conservatorship so that she can secure the Medicaid benefit the proposed conservatee needs to allow her to remain in her care facility.</p>				
<input type="checkbox"/>	Aff.Sub.Wit.					
<input checked="" type="checkbox"/>	Verified	<p>Court Investigator Samantha Henson's Report filed on 12/9/13.</p>				
<input type="checkbox"/>	Inventory					
<input type="checkbox"/>	PTC					
<input type="checkbox"/>	Not.Cred.					
<input checked="" type="checkbox"/>	Notice of Hrg					
<input checked="" type="checkbox"/>	Aff.Mail	w/				
<input type="checkbox"/>	Aff.Pub.					
<input type="checkbox"/>	Sp.Ntc.					
<input type="checkbox"/>	Pers.Serv.	X				
<input checked="" type="checkbox"/>	Conf. Screen					
<input checked="" type="checkbox"/>	Letters					
<input checked="" type="checkbox"/>	Duties/Supp					
<input type="checkbox"/>	Objections					
<input checked="" type="checkbox"/>	Video Receipt					
<input type="checkbox"/>	CI Report					
<input type="checkbox"/>	9202					
<input checked="" type="checkbox"/>	Order					
<input type="checkbox"/>	Aff. Posting					
<input type="checkbox"/>	Status Rpt					
<input type="checkbox"/>	UCCJEA					
<input type="checkbox"/>	Citation					
<input type="checkbox"/>	FTB Notice					
				Reviewed by: KT		
				Reviewed on: 12/9/13		
				Updates:		
				Recommendation:		
				File 17 – Patrick		

1A Ellard V. Youngberg (CONS/PE)

Case No. 13CEPR00378

Atty Widdis, Lawrence A.; Widdis, Laura, of Widdis & Widdis, Glendale (for Petitioner Carol J. Wertheim)

Atty Fanucchi, Edward L., of Quinlan Kershaw & Fanucchi (Court-appointed for Conservatee)

Petition for Appointment of Probate Conservator of the Person and Estate (Prob. C. 1820, 1821, 2680-2682)

Age: 91 years	CAROL J. WERTHEIM , daughter, is Petitioner and requests appointment as Conservator of the Person with medical consent and dementia powers to administer dementia medications; and of the Estate with bond set at \$255,700.00 .	NEEDS/PROBLEMS/COMMENTS: This matter will be heard at 10:00 a.m. Court Investigator Advised Rights on 6/5/2013. <u>Continued from 10/25/2013.</u> Please see First Additional Page for contents of <i>Minute Order</i> dated 10/25/2013. Note: If Court grants Conservatorship of the Estate, bond is required pursuant to Probate Code § 2320 and CA Rule of Court 7.207. Court will require confirmation regarding the value of proposed Conservatee's estate for calculation of the bond. Note: If Petition is granted for Conservatorship of the <u>Estate</u> , Court will set status hearings as follows: <ul style="list-style-type: none">• Friday, January 10, 2014 at 9:00 a.m. in Dept. 303 for filing proof of bond;• Friday, April 11, 2014 at 9:00 a.m. in Dept. 303 for filing of inventory and appraisal; and• Friday, February 13, 2015 at 9:00 a.m. in Dept. 303 for filing of first account and/or petition for final distribution. Pursuant Local Rule 7.5, if the documents noted above are filed 10 days prior to the dates listed, the hearings will be taken off calendar and no appearance will be required. <i>~Please see additional page~</i>
Cont. from 062013, 072513, 102513, 120613	Estimated Value of the Estate: Personal property - \$250,000.00 Annual income - \$ 5,700.00 Total - \$255,700.00 Capacity Declaration of Jeffrey Mar, Ph.D., filed 6/3/2013 supports request for dementia powers and medical consent powers. Voting Rights NOT Affected Petitioner states the proposed Conservatee is 91 years of age and has atypical dementia with exaggeration of longstanding domineering and controlling personality tendencies that have become inappropriate, and at times, abusive to those around him, particularly his spouse [LAVERNE YOUNGBERG.] Petitioner states the proposed Conservatee has lost much of his cognitive and functional abilities, lacks judgment and is paranoid, and he is unable to provide for his medical care, food, clothing or shelter. Petitioner states proposed Conservatee has been housed in, and needs to continue to reside in, an assisted living caretaking environment. Court Investigator Jo Ann Morris' Report was filed on 6/7/2013. <i>~Please see additional page~</i>	
Aff.Sub.Wit.		
✓ Verified		
Inventory		
PTC		
Not.Cred.		
✓ Notice of Hrg		
✓ Aff.Mail	W	
Aff.Pub.		
Sp.Ntc.		
✓ Pers.Serv.	W	
✓ Conf. Screen		
✓ Cap. Dec.		
✓ Duties/S		
Objections		
✓ Video Receipt		
✓ CI Report		
9202		
✓ Order		
Letters		
Status Rpt		
UCCJEA		
✓ Citation		
FTB Notice		

Reviewed by: LEG
Reviewed on: 12/9/13
Updates:
Recommendation:
File 1A – Youngberg

Dept. 303, 9:00 a.m. Tuesday, December 10, 2013

Minute Order dated 10/25/2013 from the hearing on the Petition for Appointment of Probate Conservator of the Person and Estate appoints Carol Wertheim as Temporary Conservator of the Person, and states in pertinent part:

- Dan Fry was present on 7/25/2013 and he is not present here today;
- Mr. and Mrs. Youngberg were directed to be present today and they are not;
- A representation has been made to the Court that the terms of the mediation agreement have not been adhered to, specifically the installation of the telephone; and
- On 7/25/2013, Mr. Fanucchi was ordered to set up an appointment to have Ellard Youngberg examined, which did not take place until 10/23/2013;
- The Court appoints Carol Wertheim as temporary conservator of the person with limited powers to facilitate visits as deemed appropriate, ensure the installation of the telephone, look into a hearing device, and to take such actions as deemed necessary to facilitate communication with the staff at the facility regarding meals etc.;
- The temporary conservator shall be limited to these powers until further order of the Court;
- This temporary conservatorship does not authorize the execution of documents or any estate planning on behalf of Ellard Youngberg;
- The Court indicates to the parties that it is issuing this temporary conservatorship based on what is believed to be in the best interest of Ellard Youngberg, and based on the voluntary mediation agreement that was not followed;
- The Court orders that the temporary conservatorship expire on 12/6/2013;
- Mr. and Mrs. Youngberg are ordered to be present at the next hearing [on **12/10/2013**].

Notes for background:

- **Minute Order dated 7/25/2013** states the Court informs Mr. Gromis and Mr. Fanucchi to update the estate planning documents appropriately. Mr. Fanucchi is ordered to set up an appointment for another examination for Mr. Youngberg. The Court would like Mr. and Mrs. Youngberg present at the next hearing. Parties agree to meet for mediation today at 1:30 p.m.
- **Minute Order dated 6/20/2013** states Ms. Widdis and Mr. [Jason] Wertheim are appearing via Courtcall. The Court indicates to the parties that per the investigative report, it appears that a conservatorship is not necessary. The Court directs Mr. Gromis to provide copies of the estate planning and other documents to Mr. Widdis.

Status Report and Request for Continuance of Sixty Days filed by Attorney Fanucchi on 10/17/2013 states:

- At the previous Mediation on 9/20/2013, it was agreed that the proposed Conservatee would be examined by a licensed psychiatrist which the undersigned was to arrange;
- The attorneys for the Petitioner, Carol Wertheim, have agreed to permit the examiner of the proposed Conservatee by **HOWARD B. TERRELL, M.D.**, Board Certified in Psychiatry and Forensic Psychiatry;
- Medical records were ordered on 10/10/2013 for Dr. Terrell to review for preparation of his report following the examination.

~Please see additional page~

Second Supplement to Petition Re: (1) Additional Capacity Declaration; (2) Declaration Re: Conservatorship with Grandfather on 9/21/2013; (a) Isolation at meals; (b) Excluded from Family Gatherings; (c) Medium/Long Term Memory Issues; (d) Misunderstanding of Surgical Risks; (e) Signing of Estate Planning Documents; (f) Do Not Resuscitate Order Not Accurate; (g) Specific Mental Ability Findings filed by CAROL WERTHEIM on 10/18/2013 states, in brief sum:

- At the hearing on 7/25/2013, the Court ordered the proposed Conservatee be reexamined by a medical professional and, since Petitioner and her attorney do not know any doctors in the Fresno area, the court-appointed counsel Edward L. Fanucchi was to arrange for the examination;
- At the second medication on 9/20/2013, it was agreed by all those present that the Youngberg family doctor, Dr. Rubio, not be the examiner;
- To date and to the best knowledge of Petitioner and her attorney, **no** additional examination of Mr. Youngberg has been completed [*emphasis in original*];
- Attached as *Exhibit A* is a *Capacity Declaration* completed by **JASON WERTHEIM, M.D., Ph.D.**, who is a licensed physician in the State of Illinois; *Exhibit B* is a declaration by Dr. Wertheim discussing proposed Conservatee's condition in detail; *Exhibit C* is Dr. Wertheim's curriculum vitae;
- Petitioner alleges that the conclusions of her son, Dr. Wertheim, mirror those of **JEFFREY MAR, M.D., Ph.D.**, as stated in the *Capacity Declaration* filed 6/3/2013 by him, and the 6/9/2012 handwritten evaluation of the proposed Conservatee by Dr. Mar attached as *Exhibit D*;
- Attached as *Exhibit E* is an Advanced Health Care Directive purportedly signed by Mr. Youngberg on 9/3/2013 and notarized by Attorney David Paul Gromis;
- Attached as *Exhibit F* is a HIPPA Authorization for Release of Protected Health Information, offered, signed and notarized through the law office of Mr. Gromis dated 9/3/2013;
- Petitioner states it at the least an inappropriate time for her father to be signing any estate planning documents or HIPPA release forms while the conservatorship matter is pending, especially because Petitioner doubts preparation of said documents was her father's idea;
- **Therefore, Petitioner asks the Court to prohibit any person from offering Mr. Youngberg estate planning documents until this matter is decided** [*emphasis added*];
- Attached as *Exhibit G* is a copy of the Mediation Agreement signed by court-appointed attorney Edward L. Fanucchi, Dr. Jason Wertheim, Petitioner Carol Wertheim, and Dan Fry, son of Mrs. Youngberg, on 9/20/2013;
- Petitioner requests that the Court review the second agreement listed on page 1 of the Mediation Agreement (*Exhibit G*) which discusses phone service in Mr. Youngberg's room and who is responsible for ordering service – Mr. Fry; to date **no** phone has been installed [*emphasis in original*]; Petitioner states this is further proof of the isolation of Mr. Youngberg by Mrs. Youngberg's family and their unwillingness to comply with voluntary agreements;
- Petitioner requests that the Court review page 3 of the Mediation Agreement (*Exhibit G*) which states the parties agreed on 9/20/13 that through the use of Mrs. Youngberg's cell phone, Mr. Youngberg would be available for phone calls from Petitioner and Dr. Wertheim on the first and third Sunday of the month between 3 and 4 p.m. or as mutually agreed; Attached as *Exhibit H* is an email from Dr. Wertheim stating he couldn't talk to his grandfather on the first Sunday he was supposed to be available through Mrs. Youngberg's cell phone;
- Petitioner states this is further proof of the isolation of Mr. Youngberg and the unwillingness to comply with voluntary agreements.

Petitioner Carol Wertheim asks that the Court approve her petition at this hearing since there is substantial evidence that Mr. Youngberg needs a conservator, that he is being pressured to sign estate planning documents, that he does not understand and therefore cannot agree to surgery, and that he is being isolated from his daughter and grandson.

~Please see additional page~

Status Report and Recommendations of Court-Appointed Counsel filed by Edward L. Fanucchi on 6/19/2013 states:

- He met for almost 3 hours with the proposed Conservatee, his wife Laverne Youngberg, and his daughter, Carol Wertheim, at Sierra View Homes in Reedley, where the elder Youngbergs reside in separate apartments, and they are with each other on a daily basis; he invited the daughter to attend so he could get an understanding of the forces within the family that have caused the filing of this *Petition* by the daughter;
- The interval history within 12 months indicates a mistrust by Mrs. Youngberg of the motives of Ms. Wertheim; Ms. Wertheim has noted estrangement with her father and Mrs. Youngberg, and this has caused Ms. Wertheim to become frustrated by her lack of involvement in the care and life of her father; things have happened on both sides that have caused this lack of good feelings in the relationship;
- Mr. Youngberg and his daughter express love for each other; it is apparent that both father and daughter share the same controlling personalities, and that personality is not meeting with acceptance from Mrs. Youngberg and her son, Daniel Fry, who is playing an ever-increasing role in the financial affairs of the Youngbergs;
- Mr. Youngberg is mentally alert, focuses on subject matter, is oriented to time, place, person, and thing, and does look to his wife for her reassurance on most matters;
- Mr. Youngberg is not aware of the extent of his assets, nor does his wife seem to be so; they were surprised by the list of assets in excess of **\$700,000.00** prepared by their estate planning attorney, David Gromis; they were unaware of the effect of joint tenancy, especially as to any accounts where one of the joint tenants was someone other than the two of them;
- The Youngbergs repeated that on the death of the last of them, they expect their estate to be divided into 4 equal shares, one share to each of the 3 children of Mrs. Youngberg and one share to the only child of Mr. Youngberg;
- There would have been no way for me to have understood the family dynamics without the presence of Mr. Youngberg's daughter, who is a schoolteacher and who presents herself quite well both in dignity and communication;
- **Recommendations:**
 1. A Conservatorship should not be granted to anyone at this point in the state of health of Mr. Youngberg; he apparently has Power of Attorney in favor of Daniel Fry, and that seems to be working well; he has spoken to Attorney Gromis who prepared the estate planning documents which have yet to be executed, and Mr. Gromis may have some hesitation because of a psychological evaluation done by Psychologist Jeffrey Mar, but it appears that Mr. Youngberg is competent in understanding, focusing, and judgment, although he is getting assistance from his wife and her son Daniel Fry, as well as Mr. Gromis;
 2. If a Conservatorship is deemed appropriate, there should be Co-Conservators with Ms. Wertheim being one along with another from Mrs. Youngberg's family; it would be totally inappropriate to grant the *Petition* which would be contrary to the wishes of *Petitioner's* father and Mrs. Youngberg; it would stir up emotions that would be highly unsettling to the family, and it would not benefit Mr. Youngberg who is being taken care of quite well through residential care and through his wife and his Attorney-in-fact; there is no question that this daughter [*Petitioner*] can be and should be involved in his life, and, through the meeting yesterday, a door has been opened to allow this to happen.

~Please see additional page~

Supplement to Petition Regarding Co-Conservators as Suggested by Court-Appointed Counsel filed by Petitioner Carol Wertheim on 7/15/2013 states:

- **Court-appointed Attorney's Report:** In the report filed by the court-appointed attorney for the proposed Conservatee, Attorney Edward Fanucchi, it is suggested on page 2 that if a conservatorship is deemed appropriate by the Court that Ms. Wertheim and Daniel Fry be appointed as Co-Conservators of the person and estate;
- **Petitioner Accepts Proposal:** Notice is hereby given that the Petitioner, Carol Wertheim, accepts advice given by Mr. Fanucchi and asks the Court to appoint her and Daniel Fry as Co-Conservators of the person and estate of her father;
- Petitioner is currently in Chicago, Illinois, assisting her son and family move into a new home (attorney signed the supplement on her behalf with her knowledge and approval, dated 7/11/2013.)

1B Ellard V. Youngberg (CONS/P)

Case No. 13CEPR00378

Atty Widdis, Lawrence A.; Widdis, Laura, of Widdis & Widdis, Glendale (for Temporary Conservator, Carol J. Wertheim)

Atty Fanucchi, Edward L.; Mahoney, Michael; of Quinlan Kershaw & Fanucchi (Court-appointed for Conservatee)

Notice of Motion and Motion of Proposed Conservatee, Ellard V. Youngberg, for Reconsideration of Court's 10-25-13, Order Appointing Conservator; Memorandum of Points and Authorities; Declaration of Edward L. Fanucchi

Age: 91 years	<p>CAROL J. WERTHEIM, daughter, Petitioned the Court requesting appointment as Conservator of the Person with medical consent and dementia powers to administer dementia medications; and of the Estate with bond set at \$255,700.00.</p> <p>Minute Order dated 10/25/2013 from the hearing on the <i>Petition for Appointment of Probate Conservator of the Person and Estate</i> appoints Carol Wertheim as Temporary Conservator of the Person, and states in pertinent part:</p> <ul style="list-style-type: none">• Dan Fry was present on 7/25/2013 and he is not present here today;• Mr. and Mrs. Youngberg were directed to be present today and they are not;• A representation has been made to the Court that the terms of the mediation agreement have not been adhered to, specifically the installation of the telephone; and• On 7/25/2013, Mr. Fanucchi was ordered to set up an appointment to have Ellard Youngberg examined, which did not take place until 10/23/2013;• The Court appoints Carol Wertheim as temporary conservator of the person with limited powers to facilitate visits as deemed appropriate, ensure the installation of the telephone, look into a hearing device, and to take such actions as deemed necessary to facilitate communication with the staff at the facility regarding meals etc.;• The temporary conservator shall be limited to these powers until further order of the Court;• This temporary conservatorship does not authorize the execution of documents or any estate planning on behalf of Ellard Youngberg;• The Court indicates to the parties that it is issuing this temporary conservatorship based on what is believed to be in the best interest of Ellard Youngberg, and based on the voluntary mediation agreement that was not followed;• The Court orders that the temporary conservatorship expire on 12/6/2013;• Mr. and Mrs. Youngberg are ordered to be present at the next hearing [on 12/10/2013]. <p style="text-align: center;">~Please see additional page~</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>This matter will be heard at 10:00 a.m.</p> <p>1. Per the Court's order on 11/21/2013, need payment of \$60.00 filing fee associated with the hearing date change from 12/6/2013 to 12/10/2013, done by Declaration of Edward Fanucchi filed 11/27/2013. A Stipulation confirming the date change was not filed per Court's 11/21/2013 order; however, in the interests of avoiding delay and the Court's preference for setting the hearing prior to 12/11/2013, the date was changed to 12/10/2013 based upon email confirmation from Attorney Lawrence Widdis.</p>
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		Reviewed on: 12/9/13
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		Recommendation:
		File 1B-Youngberg

Dept. 303, 9:00 a.m. Tuesday, December 10, 2013

Motion of Proposed Conservatee, Ellard V. Youngberg, for Reconsideration of Court's 10-25-13, Order Appointing Conservator; Memorandum of Points and Authorities; Declaration of Edward L. Fanucchi filed on 10/30/2013 states:

- Movant Ellard Youngberg moves the Court for an order reconsidering its 10/25/2013 Order Appointing Conservator and issuing a new and different ruling based upon the Court's consideration of the report of **HOWARD B. TERRELL, M.D.**, and on Dr. Terrell's opinions regarding the mental state and need of Ellard Youngberg for appointment of a conservator;
- The *Motion* is made pursuant to Code of Civil Procedure § 1008(a) and on the ground that new or different facts or circumstances exist in that Dr. Terrell's opinion, after examination of Ellard Youngberg, is that it is not necessary or appropriate to appoint a conservator of the person and estate of Ellard Youngberg, and said new or difference facts or circumstances could not have been presented earlier because Dr. Terrell's opinions had not yet been reduced to formal report as of 10/25/2013, and the attorney for Ellard Youngberg, **MICHAEL MAHONEY**, who attended the 10/25/2013 hearing whereat the subject order was made was unaware of Dr. Terrell's opinions at the time of the hearing;
- The *Motion* is based on the *Memorandum of Points and Authorities; Declaration of Edward L. Fanucchi*; the complete files and records of this proceedings, and upon such other and further evidence and argument as may be submitted to the Court prior to or at the hearing on this motion.

Declaration of Edward L. Fanucchi in Support of Motion of Proposed Conservatee, Ellard Youngberg, for Reconsideration of Court's 10/25/2013 Order Appointing Conservator states:

- The relief requested by Mr. Youngberg by way of the instant Motion is that the Court give due consideration to the report of Howard B. Terrell, M.D., the psychiatrist who evaluated Mr. Youngberg, and in particular, Dr. Terrell's professional opinion after examination of Mr. Youngberg that Mr. Youngberg does not require the appointment of a conservator for his person or his estate;
- Dr. Terrell's report and opinion has not yet been reduced to a formal writing by Dr. Terrell and therefore, was not available at the time of the Court's 10/25/2013 Order Appointing Conservator;
- He learned of Dr. Terrell's opinion during a conversation with him after the examination of Mr. Youngberg on 10/23/2013;
- He had a conflict and was unable to attend the 10/25/2013 hearing himself; as he was operating under the belief that the 10/25/2013 proceeding was merely a status hearing, and not a hearing where the relief sought by the Petitioner's petition might be granted, he sent his associate, Michael Mahoney, to the 10/25/2013 hearing, but he did not inform him of Dr. Terrell's opinion concerning Mr. Youngberg's mental state or lack of need for a conservator; therefore, Mr. Mahoney was not able to convey that information to the Court during the 10/25/2013 hearing;
- Mr. Youngberg will suffer prejudicial and irreparable harm if the Court's order of 10/25/2013 appointing Conservator is not reconsidered in light of Dr. Terrell's report and opinions, and is allowed to stand merely upon the evidence presented by the Petitioner, because appointment of a conservator for Mr. Youngberg without consideration of this evidence supporting the existence of Mr. Youngberg's autonomy and ability to make his own decisions will constitute a denial of Mr. Youngberg's right to due process.

~Please see additional page~

Memorandum of Points and Authorities in Support of Motion of Proposed Conservatee, Ellard Youngberg, for Reconsideration of Court's 10/25/2013 Order Appointing Conservator states:

- **Standard of decision:** A party moving for reconsideration must demonstrate the existence of new or different facts, circumstances or law and an explanation of why those new or different matters were not submitted for the Court's consideration earlier; Code of Civil Procedure § 1008(a);
- **Standard for reconsideration is satisfied in this proceeding:** The proposed Conservatee, Ellard Youngberg, has been evaluated by psychiatrist Howard Terrell, M.D., pursuant to the Court's order; Dr. Terrell is of the opinion that Mr. Youngberg does not require the appointment of a conservator for his person or his estate; Dr. Terrell's opinion could not be presented to the Court at the time of its 10/25/2013 Order Appointing Conservator because Dr. Terrell's report had not been reduced to a formal writing and the attorney who appeared at the 10/25/2013 hearing was unaware of Dr. Terrell's opinion; thus the Court's order appointing the Petitioner, Carol Wertheim, as the Conservator for Mr. Youngberg was based upon incomplete evidence and that order should be reconsidered by the Court in light of the opinion of the expert, who per the Court's order, evaluated Mr. Youngberg and arrived at the opinion that Mr. Youngberg does not need a conservator.
- **Conclusion:** The opinion of the expert psychiatrist who examined Mr. Youngberg at the Court's direction is absolutely necessary and vital for the Court to assimilate and take into account when it renders a decision as important and life-changing as whether or not Mr. Youngberg requires a conservator of his person or estate; since that opinion was not in a proper form to be delivered to the Court on 10/25/2013, and was unknown to the attorney who appeared at what he understood to be merely a status hearing, obviously that opinion was not part of the Court's analysis or decision-making process and reconsideration of the Court's 10/25/2013 Order Appointing Conservator, in light of Dr. Terrell's opinion, is appropriate and necessary to ensure that the best interests and due process rights of Mr. Youngberg are protected;

Mr. Youngberg respectfully requests the Court grant the instant Motion and reconsider its 10/25/2013 Order Appointing Conservator in light of Dr. Terrell's report and opinions.

Note: Declaration of Edward Fanucchi in Support of the Application for Order Shortening Time for Service of Notice of Motion, etc.; (which was granted on 11/5/2013 and set the hearing on 11/14/2013), contains the following documents attached that are not incorporated by reference into the instant *Motion for Reconsideration*, but are nonetheless briefly summarized in these notes to provide the Court with the information to consider with the instant *Motion*:

- **Copy of Capacity Declaration completed by HOWARD B. TERRELL, M.D. dated 10/30/2013;** indicates proposed Conservatee has the capacity to give informed consent to any form of medical treatment, and does not have dementia.

~Please see additional page~

Documents attached to Application for Order Shortening Time, continued:

- ***Declaration of Donna Friedenber, R.N, Residential Care Director [at Sierra View Homes, Mr. Youngberg's facility], in Support of Motion of Proposed Conservatee for Reconsideration of Court's 10/25/2013 Order Appointing Conservator states:***
 - Mr. Youngberg came to her office noticeably upset and evidencing signs of panic, and told her he needed help and that somebody had to be with him in the room where his daughter had arrived;
 - When Ms. Friedenber arrived in Mr. Youngberg's room, she found Carol Wertheim who promptly told her that she had plugged in a telephone which Dan Fry was supposed to have put in months ago; she told Ms. Wertheim that Dan did buy Mr. Youngberg a telephone for his room, but Mr. Youngberg refused to have it in his room; Mr. Wertheim stated she has a court order that he is to have a telephone, and Ms. Friedenber replied that Mr. Wertheim needed to show her a court order before she can act on it;
 - Mr. Youngberg was up and down nervous and upset during this conversation, and Carol kept telling him to sit down; Ms. Friedenber states she is familiar with the personality and emotional make-up of Mr. Youngberg, and based upon her acquaintance and professional relationship with Mr. Youngberg, she states that the reason Mr. Youngberg is in residential care is because of his physical weakness, not because of mental problems;
 - Ms. Wertheim began talking about a hearing aid, and Ms. Friedenber told her that he was recently examined and hearing aids have been ordered per what Laverne Youngberg told her;
 - Ms. Friedenber decided to notify the state ombudsman because the demands by Ms. Wertheim are in conflict of the desires of Mr. Youngberg, and this is heading toward elder abuse and could lead to a reportable incident by the Home to the Department of Health Care Services;
 - The time spent in the room together was less than two hours, and during the two hours of meeting, Ms. Wertheim kept talking on and on about many things, including that Mr. Fanucchi was not competent to represent her father, and stated she needed a lawyer from the Los Angeles area to get around this "old boys school;"
 - Ms. Friedenber states that Mr. Youngberg has told her on several occasions that his daughter and grandson interrogate him, and he does not like it;
 - Ms. Friedenber states that from her professional experiences and her contacts with Mr. Youngberg, he is a competent person and is not in need of a conservator.

~Please see additional page~

Documents attached to *Application for Order Shortening Time*, continued:

- ***Declaration of Ms. Ro Linscheid [Admission and Marketing Director at Sierra View Homes, Mr. Youngberg's facility] in Support of Motion of Proposed Conservatee for Reconsideration of Court's 10/25/2013 Order Appointing Conservator states:***
 - She has come to know Mr. Youngberg quite well as to his choices, his wishes, his personality, and his interests;
 - On 10/25/2013 at ~4:30 p.m., Carol Wertheim came to Ms. Linscheid's office and spent ~1 and ½ hour going from one subject to another about her position with regard to the care of her father;
 - Ms. Wertheim stated she needed to be an advocate for her father, and that his wife, Laverne, and stepson, Dan Fry, were "pulling the wool over his eyes;"
 - Ms. Wertheim stated her father needed someone to conserve his money; Ms. Wertheim stated she wanted the conservatorship to do things for her father, and to prevent Laverne and Dan Fry from controlling her father's finances;
 - Ms. Wertheim stated she had purchased him a telephone, and Ms. Wertheim asked Ms. Linscheid to keep it, and she agreed to do so and stated there would be no change in his wishes to not have a telephone in his room unless Sierra View Homes had a written court order that he must have a telephone in his room, even if he chooses not to have one there;
 - Ms. Wertheim kept telling her over and over that everything she is telling her is confidential;
 - Ms. Linscheid did most of the listening, and Ms. Wertheim did most of the talking;
 - Mr. Youngberg has told Ms. Linscheid on several occasions that his daughter and grandson interrogate him, and he does not like it.

Response to Ex Parte Application; Objection to Constantly Changing Hearing Dates; Objection to Lack of Notice to Proposed Conservatee's Spouse and Other Interested Persons filed 11/18/2013 by Attorney LAWRENCE WIDDIS on behalf of CAROL WERTHEIM states:

- Carol Wertheim through her attorneys, Lawrence Widdis and Laura Widdis, comes with the following responses and objections:
 - **Response to Ex Parte Application** – The court-appointed attorney, **EDWARD L. FANUCCHI**, claims that **ELLARD V. YOUNGBERG** will suffer "prejudicial and irreparable" harm to his person and property if the Court signs the temporary conservatorship order and the clerk issues *Letters*; however, Mr. Fanucchi does not cite even one specific concern for his client and no "property" can be accessed under the order for temporary *Letters*;
 - The Court granted Petitioner temporary *Letters of Conservatorship of the Person* [emphasis in original] with a number of restrictions at a noticed hearing and Petitioner has not threatened to do any act, and will not do any act, outside the powers granted by the Court;

~Please see additional page~

Response to Ex Parte Application; Objection to Constantly Changing Hearing Dates; Objection to Lack of Notice to Proposed Conservatee's Spouse and Other Interested Persons filed 11/18/2013 by Attorney LAWRENCE WIDDIS on behalf of CAROL WERTHEIM, continued:

1. Response to Ex Parte Application, continued:

- At the hearing on 7/25/2013, all [emphasis in original] attorneys, including court-appointed attorney Fanucchi, and the interested persons present agreed to continue the hearing on the conservatorship petition filed by Carol Wertheim to Friday, 10/25/2013; Mr. Fanucchi did not appear on 10/25/2013 but sent a fill-in attorney whose sole apparent mission was to ask for a continuance since Mr. Fanucchi was otherwise "busy;"
- This was not a "status hearing" on 10/25/2013 as Mr. Fanucchi has claimed;
- The clerk has yet to process the temporary *Letters* despite prompt preparation, notice, and mailing to the Court of the *Letters* and Order, nor has the clerk informed Petitioner or her attorneys of any deficiencies with the *Letters* that were submitted;
- Petitioner requests that the Court's ruling be followed;
- Petitioner and her attorneys "played by the rules," received approval of the Court for temporary *Letters*, and not cannot get the *Letters* issued.

2. Multiple Ex Parte Applications / Notices – In response to the rulings of the Court on 10/25/2013, Mr. Fanucchi filed/noticed multiple ex parte applications seeking to reverse the Court's decision on temporary *Letters*; this is unfair to Petitioner;

- Ex Parte hearings should not be used to reverse rulings of the Court made in an attorney's absence because he is otherwise "busy" and after the hearing doesn't like what the Court ruled;
- Petitioner and her attorneys are also "busy" with her high school teaching and their law practice in Southern California, but appeared on 10/25/2013 as agreed and then ordered by the Court;
- Further, the ex parte applications have had FOUR noticed dates [emphasis in original];
- Originally Mr. Fanucchi said it was on 10/31/2013 at 9:00 a.m.; then it moved to 11/12/2013; then it moved to 11/20/2013; an finally it moved to 11/21/2013; an imperative, emergency hearing moved four times is not imperative or an emergency;
- The next "regular" hearing on the conservatorship petition was set for Friday, 12/6/2013, with the agreement of all present at the hearing on 10/25/2013; now Mr. Fanucchi wants the hearing moved to Tuesday, 12/10/2013; this is also unfair to Petitioner who is a high school history teacher and can only "rearrange" her schedule with notice to the school administration; she did get permission for the 12/6/2013 hearing date, but is unsure she can receive permission for 12/10/2013; this is unfair to Petitioner;
- Further, the Court asked Petitioner to facilitate the attendance of her father, the proposed Conservatee; now Petitioner will need to be in Fresno Monday, 12/9/2013 in order to be at her father's residence early in the morning 12/10/2013 to get him transported.

~Please see additional page~

Response to Ex Parte Application; Objection to Constantly Changing Hearing Dates; Objection to Lack of Notice to Proposed Conservatee's Spouse and Other Interested Persons filed 11/18/2013 by Attorney LAWRENCE WIDDIS on behalf of CAROL WERTHEIM, continued:

- 3. Insufficient Notice** – Reviewing the latest papers from Mr. Fanucchi and specifically the *Ex Parte Application's* Proof of Service and the *Notice of Continued Hearing's* Proof of Service, both dated 11/14/2013 (copies attached), notice was not given [emphasis in original] to the spouse of the proposed Conservatee, **LaVERNE YOUNGBERG**, or to the relatives named in the conservatorship petitions such as **JASON WERTHEIM, SAMUEL WERTHEIM, JEANETTE ANTHONY**, and **ILA NELSON**, as Petitioner believes is required under Probate Code § 1822; the notices given by Mr. Fanucchi are deficient.
- 4. Hearing Dates & Conclusion** – The Petitioner respectfully requests that the ex parte application be denied for lack of sufficient notice and lack of urgency and immediate harm; Further, Petitioner requests that the continued hearing of Friday, 12/6/2013 be honored as agreed by all those present at the 10/25/2013 hearing, including the stand-in for Mr. Fanucchi; notice was given to all attorneys and interested parties of the 12/6/2013 hearing date by Petitioner's attorney; in advancing or attempting to advance this hearing to 12/10/2013, insufficient [emphasis in original] notice to all interested persons has been given.

Note: *Proof of Service By Mail* attached to Carol Wertheim's response and objection filed 11/18/2013 indicates a "Supplement to Petition Re: Additional Capacity Declaration, etc." was served by mail to all interested persons on 11/15/2013, rather than the response and objection.